



## **Courts Allow Covad Antitrust Suits Against Verizon and BellSouth to Continue**

**San Jose, Calif. (March 10, 2005)** — Two recent Court decisions allow antitrust suits filed by Covad Communications (OTCBB: COVD) to continue against Verizon and BellSouth. In both cases, the Court found that one of Covad’s antitrust claims could go forward and remanded the cases for further proceedings in the District Court.

On March 1, 2005, the D.C. Circuit Court of Appeals rendered its opinion in Covad’s antitrust lawsuit against Verizon (Covad Communications Co., et al. v. Bell Atlantic Corp., et al.). On March 7, the U.S. Supreme Court denied certiorari in Covad’s appeal from the 11th Circuit Court decision in Covad’s antitrust lawsuit against BellSouth (Covad Communications Co. v. BellSouth Corp.). The D.C. Circuit Court decision and the 11th Circuit Court decision considered the effect of the Supreme Court’s January 13, 2004 ruling in Verizon Communications v. Law Offices of Curtis Trinko on Covad’s pending antitrust suits against Verizon and BellSouth respectively. Both courts ruled that certain of Covad’s antitrust claims were foreclosed by the Trinko decision.

However, in the BellSouth decision, the 11th Circuit Court held that Covad’s claim that BellSouth had subjected Covad to an anticompetitive “price squeeze” survived the Supreme Court’s Trinko decision, and also ruled on a procedural point with respect to remedies for violations of the Telecommunications Act. In the D.C. Circuit Court decision, the Court held that Covad’s claim that Verizon had refused to deal with Covad customers survived Trinko.

James Kirkland, senior vice president and general counsel for Covad, said: “In its suits against Verizon and BellSouth, Covad alleged that these companies had engaged in concerted campaigns to foreclose competition in the broadband and voice markets in violation of the federal antitrust laws, as well as the Federal Telecommunications Act. After the Supreme Court’s decision in Trinko, many believed that federal antitrust claims could no longer be brought against incumbent local telephone companies.”



"The Courts of Appeals in both of Covad's suits have now ruled to the contrary and have clearly established that incumbent phone companies can still be held accountable under the antitrust laws. In addition, Covad claims for damages for violations of the Telecommunications Act were not in any way affected by Trinko and can go forward."

"Covad is in continuing discussions with Verizon and BellSouth with respect to possible commercial agreements, and Covad's preference is to reach commercial agreements rather than engage in legal and regulatory squabbles. In the absence of a commercial agreement, Covad is prepared to move forward with its antitrust claims and Telecommunications Act claims within the holdings of the 11th Circuit and D.C. Circuit.

"The Supreme Court's decision to deny certiorari in Covad's request for review of the 11th Circuit decision was not unexpected, since the Supreme Court accepts only a very limited number of cases for review. Denial of certiorari does not prevent Covad's lawsuit on price squeeze claims from moving forward. Covad's petition for review to the Supreme Court addressed limited issues relating to the appropriate forum for Telecommunications Act claims."

### **About Covad**

Covad is a leading nationwide provider of integrated voice and data communications. The company offers DSL, Voice Over IP, T1, Web hosting, managed security, IP and dial-up, and bundled voice and data services directly through Covad's network and through Internet Service Providers, value-added resellers, telecommunications carriers and affinity groups to small and medium-sized businesses and home users. Covad broadband services are currently available across the nation in 44 states and 235 Metropolitan Statistical Areas (MSAs) and can be purchased by more than 57 million homes and businesses, which represent over 50 percent of all US homes and businesses. Corporate headquarters is located at 110 Rio Robles San Jose, CA 95134. Telephone: 1-888-GO-COVAD. Web Site: [www.covad.com](http://www.covad.com).



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